IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 689/1999

VIDYUT ABHIYANTA GRAH NIRMAN SAHKARI SAMITI LTD.
Vs.
STATE OF RAJASTHAN & ORS.

DATE: 27.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Ghanshyam Singh for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.

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The petitioner Vidyut Abhiyanta Grah Nirman Sahakari Samiti is duly registered under the Rajasthan Cooperative Societies Act, 1965 (for short 'the Act of 1965') and also framed bye-laws. The petitioner Society acquired agricultural land in Malviya Nagar, Jaipur and lay out of housing colony in the name of Vidhyut Abhiyanta Colony, Malviya Naga, Jaipur was made and residential plots were allotted to its members and the scheme was got approved by the JDA.

The dispute arose when a notice under Section 78(1) of the Act of 1965 was issued to the petitioner on 04.03.94 by the respondent No.3. It was alleged in the notice that in the annual inspection of the Society in the year 1994, certain irregularities were found and

the Society had its whole and sole housing scheme at Malviya Nagar, Jaipur which had been technically approved and has been completed after allotment of plots to it's members and no function of the Society was left and the Society was not being run according to the Rules, meetings were not held and record was not made available for inspection and as such no justification had been left for continuing the existence of the petitioner Society and it was liable to be liquidated under Section 78 of the Act of 1965.

In response to the above notice dated 04.03.94, the petitioner Society submitted its reply. After considering the reply so submitted by the petitioner Society in response to the notice, the Deputy Registrar, Cooperative Societies, Jaipur City passed an order dated 28.05.94, by which while exercising power vested under Section 79 of the Act of 1965, liquidated the petitioner Society and appointed the respondent No.4 Shri Umesh Chand Sharma, Inspector (Executive) as Official Liquidator and was authorised to exercise powers under Section 80 of the Act of 1965 and shall submit interim report within a period of six months.

The aforesaid order dated 28.05.94 passed by the Deputy Registrar, Cooperative Societies was

challenged by the petitioner before Additional Registrar (I), Cooperative Societies, Rajasthan, Jaipur by way of filing appeal under Section 124 of the Act of 1965. The Additional Registrar (I), Cooperative Societies vide its judgment dated 25.01.96, has held that the order passed by Deputy Registrar, Cooperative Societies dated 28.05.94 requires no interference and the appeal filed by the petitioner Society under Section 124 of the Act of 1965 has been dismissed.

The above order dated 25.01.96 passed by the Additional Registrar, Cooperative Societies was challenged by the petitioner by way of filing revision petitioner under Section 128 of the Act of 1965 before the Government. In this revision petition also, having considered the orders dated 28.05.94 and 25.01.96 passed by the Deputy Registrar and Additional Registrar of the Cooperative Societies respectively, the Revisional Authority refused to interfere with the orders passed by the Deputy Registrar and Additional Registrar, Cooperative Societies as the Revisional Authority has found no illegality or procedural irregularity in the orders and dismissed the revision petition so filed by the petitioner Society vide its order dated 28.01.97.

Aggrieved and dissatisfied with the impugned notice dated 04.03.94 issued by the respondent No.3 and the orders dated 28.05.94, 25.01.96 and 28.10.97 passed by the Deputy Registrar, Additional Registrar (Appellate Authority), Cooperative Societies and Revisional Authority respectively, the petitioner Society has filed the instant writ petition and challenged the impugned orders on the ground that the notice dated 04.03.94 itself is illegal and arbitrary and without jurisdiction and also contrary to the provisions of Section 78 of the Act of 1965.

Section 78 of the Rajasthan Cooperative Societies Act, 1965 reads as under:-

> **78. Winding up of co-operative societies.-** (1) If the Registrar, after an inquiry has been held under Section 70, or an inspection has been made under section 71 or on an audit conducted under section 68 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, present at a special general meeting called for the purpose, is of opinion that the society ought to be wound up, he may after giving the society an opportunity of making its representation, issue an order directing it to be wound up.
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> (2) The Registrar may of his own motion and after giving the society an opportunity of being heard, make an order directing the winding up to such society-

(a) where it is condition of the registration of such society-

(i) that it shall consists of at least fifteen members or fifty members, as the case may be, and the number of members has been reduced to less than fifteen or fifty, as the case may be, or

(ii) that the minimum share capital of a society shall be Rs. 750/- the share capital of such society has been reduced to less than this minimum amount; or

(b) where the co-operative society has not commenced working or has ceased to work [or has completed the works as per its objections].

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exists."

The petitioner Society is legally entitled to undertake the activities for the benefit of the members according to the bye-laws framed by the Society and the aims, functions and objects have been mentioned in clause (3) of the bye-laws, The petitioner Society has rightly acquired the agricultural land for laying out residential colony in the name of Vidhyut Abhiyanta Colony and the petitioner Society cannot be restrained or prohibited from buying land in future, laying out

other colony and building or cause to be build residential houses, as and when it becomes convenient to do so. Simply mentioning that the petitioner Society had one housing scheme and the same had been completed, cannot be a reason to put a Society under liquidation.

As per Clause (3) of the bye-laws, the petitioner Society may establish and maintain social recreative and educational institutions for the benefit of its members.

I have heard rival submissions of the respective parties and have also gone through the impugned notice dated 04.03.94 as well as the impugned orders dated 28.05.94, 25.01.96 and 28.10.97 passed by the Deputy Registrar, Additional Registrar (Appellate Authority), Cooperative Societies and Revisional Authority respectively. I also carefully gone through the relevant provisions of the Rajasthan Cooperative Societies Act, 1965, more particularly Sections 78 and 79 of the Act of 1965.

As per Section 78 of the Act of 1965, if the Registrar, after an inquiry has been held under Section 70, or an inspection has been made under section 71 or on an audit conducted under section 68 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, the Society can

be liquidated.

Further as per clause(2) of Section 78 of the Act of 1965, the Registrar may of his own motion and after giving the society an opportunity of being heard, make an order directing the winding up to such society.

It is evident by Annexure-1, the impugned notice dated 04.03.94, wherein it was clearly indicted that in the year 1994, inspection of Society was made and serious irregularities were observed during inspection and in view of Section 78(1) of the Act of 1965, Registrar is empowered to issue such notice and it is also not disputed that by way of impugned notice dated 04.03.94 issued under Section 78(1) of the Act of 1965, the petitioner was called upon to submit explanation and the same was submitted by the petitioner and having considered the explanation and after giving opportunity of being heard to the petitioner, the Deputy Registrar, Cooperative Societies appointed liquidator and the petitioner Society was liquidated after exercising power under Section 79 of the Act of 1965 and the impugned order dated 28.05.94 passed by the Deputy Registrar, Cooperative Societies has been affirmed by the Additional Registrar, Cooperative Societies in appeal vide order dated 25.01.96 and the revision filed against this order

dated 25.01.96, was also dismissed by the Revisional Authority vide its order dated 28.10.97 upholding the orders passed by the Deputy Registrar and Additional Registrar, Cooperative Societies.

All the Courts below have given concurrent findings against the petitioner on the basis of the inspection and it has rightly been observed that since the petitioner Society has completed its scheme for which it was formed and since the purpose is served, therefore, after issuing notice under Section 78(1) of the Act of 1965, liquidation proceedings have rightly been initiated.

I find no illegality or error apparent on the face of the record which requires any interference by this Court.

Consequently, the writ petition fails being devoid of merit and the same is accordingly dismissed.

(K.S. RATHORE),J.

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